

The House Committee on Transportation offers the following substitute to HB 1139:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to implement a 1 percent increase in the state-wide sales and use taxes
3 to be used for transportation purposes; to not exempt motor fuels from such increase in the
4 state-wide sales and use taxes; to amend Chapter 9 of Title 48 of the Official Code of
5 Georgia Annotated, relating to motor fuel and road taxes, so as to reflect the 1 percent
6 increase in the sales and use tax; to amend Chapter 13 of Title 48 of the Official Code of
7 Georgia Annotated, relating to specific, business, and occupation taxes, so as to reflect the
8 1 percent increase in the sales and use tax; to provide for distribution of the proceeds of the
9 state-wide transportation tax; to provide for related matters; to provide for a contingent
10 effective date and applicability; to provide for automatic repeal under certain circumstances;
11 to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
15 taxes, is amended by revising Code Section 48-8-3.1, relating to exemptions for motor fuels
16 from sales and use taxes, as follows:

17 "48-8-3.1.

18 (a) Except as provided in subsection (b) of this Code section, sales of motor fuels as
19 defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent
20 of the sales and use taxes levied or imposed by this article and shall be subject to the
21 remaining ~~1~~ 2 percent of the sales and use taxes levied or imposed by this article.

22 (b) Sales of motor fuel other than gasoline, which motor fuel other than gasoline is
23 purchased for purposes other than propelling motor vehicles on public highways as defined
24 in Article 1 of Chapter 9 of this title, shall be fully subject to the ~~4~~ 5 percent sales and use
25 taxes levied or imposed by this article unless otherwise specifically exempted by this
26 article.

H. B. 1139 (SUB)

(c) It is specifically declared to be the intent of the General Assembly that taxation imposed on sales of motor fuel wholly or partially subject to taxation under this Code section shall not constitute motor fuel taxes for purposes of any provision of the Constitution providing for the automatic or mandatory appropriation of any amount of funds equal to funds derived from motor fuel taxes.

(d) It is further declared to be the intent of the General Assembly that an amount equal to the sum of all funds collected from this additional 1 percent general state-wide sales and use tax raised from sales of motor fuel, as provided by Article III, Section IX, Paragraph VI(b.1) of the Constitution, shall be used to fund the Local Assistance Road Program and the State Road Construction Program, which is off system and is most needed."

SECTION 2.

Said chapter is further amended by revising subsection (c.1) of Code Section 48-8-6, relating to the ceiling on local sales and use taxes, as follows:

"(c.1) Where the exception specified in paragraph (2) of subsection (b) of this Code section applies, on and after ~~July 1, 2007~~ January 1, 2009, the aggregate amount of all excise taxes imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall not exceed ~~14~~ 15 percent."

SECTION 3.

Said chapter is further amended by revising Code Section 48-8-30, relating to the rate and imposition of the state sales and use tax, as follows:

"48-8-30.

(a) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage, use, or consumption of tangible personal property and on the services described in this article.

(b)(1) Every purchaser of tangible personal property at retail in this state shall be liable for a tax on the purchase at the rate of ~~4~~ 5 percent of the sales price of the purchase. The tax shall be paid by the purchaser to the retailer making the sale, as provided in this article. The retailer shall remit the tax to the commissioner, as provided in this article, and, when received by the commissioner, the tax shall be a credit against the tax imposed on the retailer. Every person making a sale or sales of tangible personal property at retail in this state shall be a retailer and a dealer and shall be liable for a tax on the sale at the rate of ~~4~~ 5 percent of the gross sale or gross sales, or the amount of taxes collected by him or her from his or her purchaser or purchasers, whichever is greater.

(2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the purchaser at retail.

(c)(1) Upon the first instance of use, consumption, distribution, or storage within this state of tangible personal property purchased at retail outside this state, the owner or user of the property shall be a dealer and shall be liable for a tax at the rate of ~~4~~ 5 percent of the cost price, except as provided in paragraph (2) of this subsection.

(2) Upon the first instance of use, consumption, distribution, or storage within this state of tangible personal property purchased at retail outside this state and used outside this state for more than six months prior to its first use within this state, the owner or user of the property shall be a dealer and shall be liable for a tax at the rate of ~~4~~ 5 percent of the cost price or fair market value of the property, whichever is the lesser.

(3) This subsection shall not be construed to require a duplication in the payment of the tax. The tax imposed by this subsection shall be subject to the credit otherwise granted by this article for like taxes previously paid in another state.

(c.1)(1) Every purchaser of tangible personal property at retail outside this state from a dealer, as defined in subparagraph (H) of paragraph (3) of Code Section 48-8-2, when such property is to be used, consumed, distributed, or stored within this state, shall be liable for a tax on the purchase at the rate of ~~4~~ 5 percent of the sales price of the purchase. It shall be prima-facie evidence that such property is to be used, consumed, distributed, or stored within this state if that property is delivered in this state to the purchaser or agent thereof. The tax shall be paid by the purchaser to the retailer making the sale, as provided in this article. The retailer shall remit the tax to the commissioner, as provided in this article, and, when received by the commissioner, the tax shall be a credit against the tax imposed on the retailer. Every person who is a dealer, as defined in subparagraph (H) of paragraph (3) of Code Section 48-8-2, and who makes any sale of tangible personal property at retail outside this state, which property is to be delivered in this state to a purchaser or purchaser's agent, shall be a retailer and a dealer for purposes of this article and shall be liable for a tax on the sale at the rate of ~~4~~ 5 percent of such gross sales or the amount of tax as collected by that person from purchasers having their purchases delivered in this state, whichever is greater.

(2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the purchaser at retail. The tax imposed by this subsection shall be subject to the credit otherwise granted by this article for like taxes previously paid in another state. This subsection shall not be construed to require a duplication in the payment of the tax.

(d)(1) Every person to whom tangible personal property in ~~the~~ this state is leased or rented shall be liable for a tax on the lease or rental at the rate of ~~4~~ 5 percent of the gross lease or rental charge. The tax shall be paid to the person who leases or rents the property by the person to whom the property is leased or rented. A person who leases or rents property to others as a dealer under this article shall remit the tax to the commissioner,

1 as provided in this article. When received by the commissioner, the tax shall be a credit
2 against the tax imposed on the person who leases or rents the property to others. Every
3 person who leases or rents tangible personal property in this state to others shall be a
4 dealer and shall be liable for a tax on the lease or rental at the rate of ~~4~~ 5 percent of the
5 gross lease or rental proceeds, or the amount of taxes collected by him or her from
6 persons to whom he or she leases or rents tangible personal property, whichever is
7 greater.

8 (2) No lease or rental shall be taxable to the person who leases or rents tangible property
9 to another which is not taxable to the person to whom the property is leased or rented.

10 (3) The lessee of both taxable and exempt property in this state under a single lease
11 agreement containing a lease period of ten years or more shall have the option to
12 discharge in full all sales and use taxes imposed by this article relating to the tangible
13 personal property by paying in a lump sum ~~4~~ 5 percent of the fair market value of the
14 tangible personal property at the date of inception of the lease agreement in the same
15 manner and under the same conditions applicable to sales of the tangible personal
16 property.

17 (e) Upon the first instance of use within this state of tangible personal property leased or
18 rented outside this state, the person to whom the property is leased or rented shall be a
19 dealer and shall be liable for a tax at the rate of ~~4~~ 5 percent of the rental charge paid to the
20 person who leased or rented the property, subject to the credit authorized for like taxes
21 previously paid in another state.

22 (e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside
23 this state for use within this state shall be liable for a tax at the rate of ~~4~~ 5 percent of the
24 rental charge paid for that lease or rental if that person is a dealer, as defined in
25 subparagraph (H) of paragraph (3) of Code Section 48-8-2~~3~~ and title to that property
26 remains in that person. It shall be prima-facie evidence that such property is to be used
27 within this state if that property is delivered in this state to the lessee or renter of such
28 property, or to the agent of either. The tax shall be paid by the lessee or renter~~3~~ and
29 payment of the tax shall be made to the lessor or person receiving rental payments for that
30 property, which person shall be the dealer for purposes of this article. The dealer shall
31 remit the tax to the commissioner~~3~~ as provided in this article~~3~~ and, when received by the
32 commissioner, the tax shall be a credit against the tax imposed on the dealer. Every
33 person who is a dealer, as defined in subparagraph (H) of paragraph (3) of Code
34 Section 48-8-2~~3~~ and who leases or rents tangible personal property outside this state to be
35 delivered in this state to the lessee, renter, or agent of either shall be a dealer and shall be
36 liable as such for a tax on the lease or rental at the rate of ~~4~~ 5 percent of the gross

proceeds from such leases or rentals or the amount of taxes collected by that dealer for leases or rentals of tangible personal property delivered in this state, whichever is greater.

(2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or renter. The tax imposed by this subsection shall be subject to the credit granted by this article for like taxes previously paid in another state. This subsection shall not be construed to require a duplication in the payment of the tax.

(f)(1) Every person purchasing or receiving any service within this state, the purchase of which is a retail sale, shall be liable for tax on the purchase at the rate of ~~4~~ 5 percent of the gross charge or charges made for the purchase. The tax shall be paid by the person purchasing or receiving the service to the person furnishing the service. The person furnishing the service, as a dealer under this article, shall remit the tax to the commissioner, as provided in this article; and, when received by the commissioner, the tax shall be a credit against the tax imposed on the person furnishing the service. Every person furnishing a service, the purchase of which is a retail sale, shall be a dealer and shall be liable for a tax on the sale at the rate of ~~4~~ 5 percent of the gross charge or charges made for furnishing the service, or the amount of taxes collected by him or her from the person to whom the service is furnished, whichever is greater.

(2) No sale of services shall be taxable to the person furnishing the service which is not taxable to the purchaser of the service.

(g) Whenever a purchaser of tangible personal property under subsection (b) or (c.1) of this Code section, a lessee or renter of the property under subsection (d) or (e.1) of this Code section, or a purchaser of taxable services under subsection (f) of this Code section does not pay the tax imposed upon him or her to the retailer, lessor, or dealer who is involved in the taxable transaction, ~~the~~ such purchaser, lessee, or renter shall be a dealer himself or herself and the commissioner, whenever he or she has reason to believe that a purchaser or lessee has not so paid the tax, may assess and collect the tax directly against and from ~~the~~ such purchaser, lessee, or renter, unless ~~the~~ such purchaser, lessee, or renter shows that the retailer, lessor, or dealer who is involved in the transaction has nevertheless remitted to the commissioner the tax imposed on the transaction. If payment is received directly from the purchaser, lessee, or renter, it shall not be collected a second time from the retailer, lessor, or dealer who is involved.

(h) The tax imposed by this Code section shall be collected from the dealer and paid at the time and in the manner provided in this article. Any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax imposed on the gross proceeds of retail sales of the business at the rate specified when proper books are kept showing separately the gross proceeds of sales for each business. If the records are not kept separately, the tax shall be paid as a retailer or dealer on the gross sales of the

business. For the purpose of this Code section, all sales through any one vending machine shall be treated as a single sale. The gross proceeds for reporting vending sales shall be treated as if the tax is included in the sale, and the taxable proceeds shall be net of the tax included in the sale.

(i) The tax levied by this Code section is in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes levied.

(j) In the event any distributor licensed under Chapter 9 of this title purchases any motor fuel on which the prepaid state tax or prepaid local tax or both have been imposed pursuant to this Code section and resells the same to a governmental entity that is totally or partially exempt from such tax under paragraph (1) of Code Section 48-8-3, such distributor shall be entitled to either a credit or refund. The amount of the credit or refund shall be the prepaid state tax or prepaid local tax or both rates for which such governmental entity is exempt multiplied by the gallons of motor fuel purchased for its exclusive use. To be eligible for the credit or refund, the distributor shall reduce the amount such distributor charges for the fuel sold to such governmental entity by an amount equal to the tax from which such governmental entity is exempt. Should a distributor have a liability under this Code section, the distributor may elect to take a credit for those sales against such liability.

(k) The prepaid local tax shall be imposed at the time tax is imposed under subparagraph (b)(2)(B) of Code Section 48-9-14."

SECTION 4.

Said chapter is further amended by adding a new Code section to read as follows:

"48-8-30.1.

(a) The General Assembly finds that the State of Georgia is currently lacking the necessary permanent funding to maintain and build a viable transportation network to meet the demands created by the growing population in metropolitan Atlanta and the rest of this state. It is necessary in order to sustain public safety, mobility, economic development, and a high quality of life in Georgia that a reliable method for financing transportation projects throughout this state be established. In order to provide current and future Georgians with an efficient, free flowing transportation network for the foreseeable future, the General Assembly hereby determines that 1 percent of the amount of state-wide sales and use tax collected shall be used for transportation purposes, including capital outlay and maintenance expenses. Transportation purposes shall also include, but not be limited to, roads, rails, bridges, airports, public transit, buses, seaports, and all accompanying infrastructure and services necessary to provide access to these transportation facilities. The 1 percent increase in the state-wide sales and use tax shall only become effective if a

1 state-wide referendum approves a constitutional amendment to dedicate 1 percent of the
2 state-wide sales and use taxes for transportation purposes. If the state-wide referendum
3 fails, the 1 percent increase shall not be implemented.

4 (b) If the state-wide referendum provided for in subsection (a) of this Code section is
5 approved, the funds collected for transportation purposes shall be distributed according to
6 the provisions of this subsection. The total amount of funds collected for transportation
7 purposes under this Code section shall be deposited with the Department of Transportation
8 and shall be disbursed by the department as follows:

9 (1) Ninety percent of the funds collected in a region, plus any accumulated interest, shall
10 be used to fund transportation projects in that region and shall be used for transportation
11 purposes. Each region, in cooperation with the Department of Transportation, shall
12 establish a list of transportation projects to be funded; and

13 (2) Ten percent of the funds shall be dedicated to constructing, maintaining, and
14 improving state-wide transportation. These funds shall be expended as directed by the
15 General Assembly for specified state-wide transportation projects.

16 A region, for purposes of this subsection, shall consist of the regional commissions created
17 under the provisions of Article 2 of Chapter 8 of Title 50."

18 **SECTION 5.**

19 Said chapter is further amended by revising Code Section 48-8-32, relating to collection of
20 tax from dealers, as follows:

21 "48-8-32.

22 The tax at the rate of ~~4~~ 5 percent of the retail sales price at the time of sale or ~~4~~ 5 percent
23 of the cost price at the time of purchase, as the case may be, shall be collectable from all
24 persons engaged as dealers in the sale at retail; or in the use, consumption, distribution, or
25 storage for use or consumption in this state of tangible personal property."

26 **SECTION 6.**

27 Said chapter is further amended by revising Code Section 48-8-43, relating to the disposition
28 of certain excess taxes, as follows:

29 "48-8-43.

30 When the tax collected for any period is in excess of ~~4~~ 5 percent, the total tax collected
31 shall be paid over to the commissioner less the compensation to be allowed the dealer."

32 **SECTION 7.**

33 Said chapter is further amended by revising subsection (e) of Code Section 48-8-63, relating
34 to the payment of tax by certain contractors, as follows:

"(e)(1) Any subcontractor who enters into a construction contract with a general or prime contractor shall be liable under this article as a general or prime contractor. Any general or prime contractor who enters into any construction contract or contracts with any nonresident subcontractor, where the total amount of such contract or contracts between such general or prime contractor and any nonresident subcontractors on any given project equals or exceeds \$250,000.00, shall withhold up to ~~4~~ 5 percent of the payments due ~~the~~ such subcontractor in satisfaction of any sales or use taxes owed this state.

(2) The prime or general contractor shall withhold payments on all contracts that meet the criteria specified in paragraph (1) of this subsection until the nonresident subcontractor furnishes such prime or general contractor with a certificate issued by the commissioner showing that all sales taxes accruing by reason of the contract between ~~the~~ such nonresident subcontractor and ~~the~~ such general or prime contractor have been paid and satisfied. If ~~the~~ such prime or general contractor for any reason fails to withhold up to ~~4~~ 5 percent of the payments due ~~the~~ such nonresident subcontractor under their contract, such prime or general contractor shall become liable for any sales or use taxes due or owed this state by ~~the~~ such nonresident subcontractor."

SECTION 8.

Said chapter is further amended by revising subsection (d) of Code Section 48-8-201, relating to the intergovernmental contract implementing a water and sewer projects costs tax, as follows:

"(d) On and after ~~July 1, 2007~~ January 1, 2009, the aggregate amount of all excise taxes imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall not exceed ~~14~~ 15 percent."

SECTION 9.

Chapter 9 of Title 48 of the Official Code of Georgia Annotated, relating to motor fuel and road taxes, is amended by revising subparagraph (b)(2)(B) of Code Section 48-9-14, relating to the second motor fuel tax rate and exemptions, as follows:

"(B) At the time the tax imposed by Code Section 48-9-3 attaches to a sale or transfer of motor fuels, a prepaid state tax shall be collected. The same person remitting the tax imposed under Code Section 48-9-3, but on a separate schedule, shall remit the prepaid state tax to the state. The tax shall be separately invoiced throughout the chain of distribution until it reaches the dealer who makes the retail sale. The commissioner shall issue the rate of prepaid state tax on a semiannual basis, rounded to the nearest \$.001 per gallon for use in the following semiannual period. The rate shall be calculated at ~~4~~ 5 percent of the state-wide average retail price by motor fuel type as

1 compiled by the Energy Information Agency of the United States Department of
2 Energy, the Oil Pricing Information Service, or a similar reliable published index less
3 taxes imposed under Code Section 48-9-3, this subsection, and all local sales and use
4 taxes. In the event that the retail price changes by 25 percent or more within a
5 semiannual period, the commissioner shall issue a revised prepaid state tax rate for the
6 remainder of that period."

7 **SECTION 10.**

8 Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to specific,
9 business, and occupation taxes, is amended by revising paragraphs (3.1), (4.1), and (5.1) of
10 subsection (a) of Code Section 48-13-51, relating to the excise tax on rooms, lodgings, and
11 accommodations, as follows:

12 "(3.1) Notwithstanding any other provision of this subsection, a county (within the
13 territorial limits of the special district located within the county) and the municipalities
14 within a county in which a trade and convention center authority has been created by
15 intergovernmental contract between a county and one or more municipalities located
16 therein, and which trade and convention center authority is in existence on or before
17 March 21, 1988, and which trade and convention center authority has not constructed or
18 operated any facility before March 21, 1988, may levy a tax under this Code section at
19 a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph
20 shall expend (in each fiscal year during which the tax is collected under this paragraph
21 (3.1)) an amount equal to at least 62 1/2 percent of the total taxes collected at the rate of
22 6 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B)
23 funding, supporting, acquiring, constructing, renovating, improving, and equipping
24 buildings, structures, and facilities, including, but not limited to, a trade and convention
25 center, exhibit hall, conference center, performing arts center, accommodations facilities
26 including food service, or any combination thereof, for convention, trade show, athletic,
27 musical, theatrical, cultural, civic, and performing arts purposes and other events and
28 activities for similar and related purposes, acquiring the necessary property therefor, both
29 real and personal, and funding all expenses incident thereto, and supporting, maintaining,
30 and promoting such facilities owned, operated, or leased by or to the local trade and
31 convention center authority; or (C) for some combination of such purposes; provided,
32 however, that at least 50 percent of the total taxes collected at the rate of 6 percent shall
33 be expended for the purposes specified in subparagraph (B) of this paragraph (3.1).
34 Amounts so expended shall be expended only through a contract or contracts with the
35 state, a department of state government, a state authority, a convention and visitors
36 bureau authority created by local Act of the General Assembly for a municipality, a local

1 building authority created by local constitutional amendment, and a trade and convention
2 center authority created by intergovernmental contract between a county and one or more
3 municipalities located therein, or a private sector nonprofit organization or through a
4 contract or contracts with some combination of such entities. The aggregate amount of
5 all excise taxes imposed under this paragraph (3.1) and all sales and use taxes, and other
6 taxes imposed by a county or municipality, or both, shall not exceed ~~13~~ 14 percent. Any
7 tax levied pursuant to this paragraph (3.1) shall terminate not later than December 31,
8 2029, provided that during any period during which there remains outstanding any
9 obligation issued to fund a facility as contemplated by this paragraph (3.1), secured in
10 whole or in part by a pledge of a tax authorized under this Code section, the powers of
11 the counties and municipalities to impose and distribute the tax imposed by this
12 paragraph (3.1) shall not be diminished or impaired by the state, and no county or
13 municipality levying the tax imposed by this paragraph (3.1) shall cease to levy the tax
14 in any manner that will impair the interests and rights of the holder of any such
15 obligation. This proviso shall be for the benefit of the holder of any such obligation and,
16 upon the issuance of any such obligation by a building authority created by local
17 constitutional amendment, shall constitute a contract with the holder of such obligation.
18 Notwithstanding any other provision of this Code section to the contrary, as used in this
19 paragraph (3.1), the term: 'fund' or 'funding' shall include the cost and expense of all
20 things deemed necessary by a building authority created by local constitutional
21 amendment for the construction and operation of a facility or facilities, including, but not
22 limited to, the study, operation, marketing, acquisition, construction, financing, including
23 the payment of principal and interest on any obligation of the building authority created
24 by local constitutional amendment and any obligation of the building authority created
25 by local constitutional amendment to refund any prior obligation of the building authority
26 created by local constitutional amendment, development, extension, enlargement, or
27 improvement of land, waters, property, streets, highways, buildings, structures,
28 equipment, or facilities and the repayment of any obligation incurred by an authority in
29 connection therewith; 'obligation' shall include bonds, notes, or any instrument creating
30 an obligation to pay or reserve moneys and having an initial term of not more than 37
31 years; and 'facility' or 'facilities' ~~shall mean~~ means any of the buildings, structures, and
32 facilities described in subparagraph (B) of this paragraph (3.1) and any associated parking
33 areas or improvements originally owned or operated incident to the ownership or
34 operation of such facility used for any purpose or purposes specified in subparagraph (B)
35 of this paragraph (3.1) by a building authority created by local constitutional
36 amendment."

1 "(4.1) Notwithstanding any other provision of this subsection, a county (within the
2 territorial limits of the special district located within the county) or municipality within
3 a county in which a coliseum authority has been created by local Act of the General
4 Assembly and which authority is in existence on or before July 1, 1963, for the purpose
5 of owning or operating a facility, may levy a tax under this Code section at a rate of 7
6 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
7 (in each fiscal year during which the tax is collected under this paragraph (4.1)) an
8 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 7 percent
9 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding and
10 supporting a facility owned or operated by such coliseum authority; or (C) for some
11 combination of such purposes. Amounts so expended shall be expended only through a
12 contract or contracts with the state, a department of state government, a state authority,
13 a convention and visitors bureau authority created by local Act of the General Assembly
14 for a municipality, a local coliseum authority, or a private sector nonprofit organization,
15 or through a contract or contracts with some combination of such entities, except that
16 amounts expended for the purpose described in subparagraph (B) of this paragraph may
17 be so expended in any otherwise lawful manner without the necessity of a contract. The
18 aggregate amount of all excise taxes imposed under this paragraph (4.1) and all sales and
19 use taxes, and other taxes imposed by a county or municipality, or both, shall not exceed
20 ~~12~~ 13 percent. Any tax levied pursuant to this paragraph (4.1) shall terminate not later
21 than December 31, 2028, provided that during any period during which there remains
22 outstanding any obligation which is incurred prior to January 1, 1995, issued to fund a
23 facility as contemplated by this paragraph (4.1), and secured in whole or in part by a
24 pledge of a tax authorized under this Code section, the powers of the counties and
25 municipalities to impose and distribute the tax imposed by this paragraph (4.1) shall not
26 be diminished or impaired by the state, and no county or municipality levying the tax
27 imposed by this paragraph (4.1) shall cease to levy the tax in any manner that will impair
28 the interest and rights of the holders of any such obligation. This proviso shall be for the
29 benefit of the holder of any such obligation and, upon the issuance of any such obligation
30 by a coliseum and exhibit hall authority, shall constitute a contract with the holder of such
31 obligations. Notwithstanding any other provision of this Code section to the contrary, as
32 used in this paragraph (4.1), the term: 'fund' and 'funding' shall include the cost and
33 expense of all things deemed necessary by a local coliseum authority for the construction,
34 renovation, and operation of a facility, including, but not limited to, the study, operation,
35 marketing, acquisition, construction, finance, development, extension, enlargement, or
36 improvement of land, waters, property, streets, highways, buildings, structures,
37 equipment, or facilities, and the repayment of any obligation incurred by a local coliseum

1 authority in connection therewith; 'obligation' shall include bonds, notes, or any
2 instrument creating an obligation to pay or reserve moneys incurred prior to January 1,
3 1995, and having an initial term of not more than 30 years; and 'facility' ~~shall mean~~ means
4 a coliseum or other facility and any associated parking areas or improvements originally
5 owned or operated incident to the ownership or operation of a facility used for convention
6 and trade show purposes or amusement purposes, educational purposes, or a combination
7 thereof and for fairs, expositions, or exhibitions in connection therewith by a local
8 coliseum authority."

9 "(5.1) Notwithstanding any other provision of this subsection, a county (within the
10 territorial limits of the special district located within the county) and the municipalities
11 within a county in which a coliseum and exhibit hall authority has been created by local
12 Act of the General Assembly for a county and one or more municipalities therein, and
13 which local coliseum and exhibit hall authority is in existence on or before January 1,
14 1991, and which local coliseum and exhibit hall authority has not constructed or operated
15 any facility before January 1, 1991, may levy a tax under this Code section at a rate of 8
16 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
17 (in each fiscal year during which the tax is collected under this paragraph (5.1)) an
18 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 8 percent
19 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding,
20 supporting, acquiring, constructing, renovating, improving, and equipping buildings,
21 structures, and facilities, including, but not limited to, a coliseum, exhibit hall, conference
22 center, performing arts center, or any combination thereof, for convention, trade show,
23 athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events
24 and activities for similar and related purposes, acquiring the necessary property therefor,
25 both real and personal, and funding all expenses incident thereto, and supporting,
26 maintaining, and promoting such facilities owned, operated, or leased by or to the local
27 coliseum and exhibit hall authority or a downtown development authority; or (C) for
28 some combination of such purposes; provided, however, that at least 50 percent of the
29 total taxes collected at the rate of 8 percent shall be expended for the purposes specified
30 in subparagraph (B) of this paragraph (5.1). Amounts so expended shall be expended
31 only through a contract or contracts with the state, a department of state government, a
32 state authority, a convention and visitors bureau authority created by local Act of the
33 General Assembly for a municipality, a local coliseum and exhibit hall authority, a
34 downtown development authority, or a private sector nonprofit organization or through
35 a contract or contracts with some combination of such entities, notwithstanding any
36 provision of paragraph (8) of this subsection to the contrary. The aggregate amount of
37 all excise taxes imposed under this paragraph (5.1) and all sales and use taxes, and other

1 taxes imposed by a county or municipality, or both, shall not exceed ~~13~~ 14 percent;
 2 provided, however, that any sales tax for educational purposes which is imposed pursuant
 3 to Article VIII, Section VI, Paragraph IV of the Constitution shall not be included in
 4 calculating such limitation. Any tax levied pursuant to this paragraph (5.1) shall
 5 terminate not later than December 31, 2028, provided that during any period during
 6 which there remains outstanding any obligation issued to fund a facility as contemplated
 7 by this paragraph (5.1), secured in whole or in part by a pledge of a tax authorized under
 8 this Code section, the powers of the counties and municipalities to impose and distribute
 9 the tax imposed by this paragraph (5.1) shall not be diminished or impaired by the state,
 10 and no county or municipality levying the tax imposed by this paragraph (5.1) shall cease
 11 to levy the tax in any manner that will impair the interests and rights of the holder of any
 12 such obligation. This proviso shall be for the benefit of the holder of any such obligation
 13 and, upon the issuance of any such obligation by a local coliseum and exhibit hall
 14 authority or a downtown development authority, shall constitute a contract with the
 15 holder of such obligation. Notwithstanding any other provision of this Code section to
 16 the contrary, as used in this paragraph (5.1), the term: 'fund' or 'funding' shall include the
 17 cost and expense of all things deemed necessary by a local coliseum and exhibit hall
 18 authority or a downtown development authority for the construction and operation of a
 19 facility or facilities, including, but not limited to, the study, operation, marketing,
 20 acquisition, construction, financing, including the payment of principal and interest on
 21 any obligation of the local coliseum and exhibit hall authority or the downtown
 22 development authority and any obligation of the local coliseum and exhibit hall authority
 23 or the downtown development authority to refund any prior obligation of the local
 24 coliseum and exhibit hall authority or the downtown development authority,
 25 development, extension, enlargement, or improvement of land, waters, property, streets,
 26 highways, buildings, structures, equipment, or facilities and the repayment of any
 27 obligation incurred by an authority in connection therewith; 'obligation' shall include
 28 bonds, notes, or any instrument creating an obligation to pay or reserve moneys and
 29 having an initial term of not more than 37 years; 'facility' ~~or 'facilities' shall mean~~ means
 30 any of the buildings, structures, and facilities described in subparagraph (B) of this
 31 paragraph (5.1) and any associated parking areas or improvements originally owned or
 32 operated incident to the ownership or operation of such facility used for any purpose or
 33 purposes specified in subparagraph (B) of this paragraph (5.1) by a local coliseum and
 34 exhibit hall authority or a downtown development authority; and 'downtown development
 35 authority' ~~shall mean~~ means a downtown development authority created by local Act of
 36 the General Assembly for a municipality pursuant to a local constitutional amendment."

SECTION 11.

This Act shall become effective on January 1, 2009; provided, however, that this Act shall only become effective on January 1, 2009, upon the ratification of a resolution at the November, 2008, state-wide general election, which resolution amends the Constitution so as to authorize use of 1 percent of the state-wide sales and use tax for transportation purposes. If such resolution is not so ratified, this Act shall not become effective and shall stand repealed in its entirety on January 1, 2009.

SECTION 12.

All laws and parts of laws in conflict with this Act are repealed.